REMARKS

Claims 28-32 are pending in this application. No claims have been amended, cancelled, or added. The Examiner's objections and rejections are presented below:

I) The Examiner withdrew Claims 31-32 from further consideration;

II) The Examiner objected to Figure 3b;

III) The Examiner objected to the use of certain trademarks in the application;

IV) Claims 28-30 were rejected under 35 U.S.C. 103(a) as allegedly obvious in view of De Clercq et al., and

V) Claims 28-30 were rejected under 35 U.S.C. 103(a) as allegedly obvious in view of Beale et al.

I. Claims 31-32 Were Improperly Withdrawn

In the Office Action, the Examiner indicated that Claims 31-32 were "withdrawn from further consideration pursuant to 37 CFR 1.142(b)" as being drawn to nonelected species. (Office Action, page 2). Applicants respectfully submit that it is improper to withdraw claims from further consideration based on a *species election*. The CFR section cited by the Examiner (37 CFR 1.142(b)) relates to standard group restrictions - not a species election. In a species election, such as the present case, claims that do not read on the elected species may not be withdrawn by the Examiner and instead must be examined upon allowance of the generic claims as indicated by MPEP 809.02, ¶8.01:

> Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

In light of the above, Applicants submit that Claims 31-32 should not be withdrawn from consideration, and instead, must be examined once the Examiner finds Claim 28 allowable.

II. Replacement Figure

The Examiner objected to Figure 3B for containing an extraneous "μ." (Office Action, page 3). Applicants have included a replacement Figure 3 with this communication that deletes this extraneous character.

III. Trademark Usage

The Examiner objected to the use of certain trademarks in the application. (Office Action, page 4). Applicants have amended the specification as indicated above to capitalize each of the trademarks and add generic terminology if not already present.

IV-V. Obviousness Rejections and Priority Information

The Examiner issued two obviousness rejections of Claims 28-30, one in light of De Clearq et al. and the second in view of Beale et al. (Office Action, pages 4-5). Both of these references were published in 2000. Applicants submit that neither one of these references are prior art as they are after the priority dates of the present application. In particular, as indicated in the Preliminary Amendment filed August 22, 2006, the priority information for the present application is as follows:

> The present application is a Continuation of U.S. application Serial No. 09/647,270, filed September 27, 2000, now abandoned, which in turn is a National Stage Entry under 35 U.S.C. 371 of PCT application PCT/US99/06700, filed March 26, 1999, which claims priority to United States Provisional Patent Applications Serial Nos. 60/079,764, filed 27-March-1998, and 60,093,208, filed 17-July-1998.

As neither reference cited by the Examiner is prior art, Applicants request this rejection be withdrawn.

Applicants note that during a brief phone call on June 7th, the Examiner indicated that the Patent Office records did not include the PCT application or two Provisional applications in the priority information for this application. Applicants respectfully request that this information be updated to reflect the priority information presented in the Preliminary Amendment filed August 22, 2006.

CONCLUSION

Should the Examiner believe that a telephone interview would aid in the prosecution of this application, the Applicants encourage the Examiner to call the undersigned at 608-218-6900.

Dated: June 8, 2007

/ Jason R. Bond /
Jason R. Bond
Registration No. 45,439
MEDLEN & CARROLL, LLP
101 Howard Street, Suite 350
San Francisco, California 94105
608.218.6900